

REMARKS/ARGUMENTS

The foregoing amendment and the remarks which follow are responsive to the office action dated February 28, 2005. In that office action, claims 19 and 37 were examined. Claim 19 was rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 6,013,049 (Rockley et al.). Both claims 19 and 37 were rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 5,163,443 (Kagawa et al.).

By the present amendment, Applicant has cancelled claims 1-117 and has added new claims 118-130. No new matter has been added. New claims 118-130 are directed to Invention I, Species B, Subspecies xi, as provisionally elected in Applicant's paper filed on October 25, 2004. Support for these new claims is found throughout the originally filed specification, including but not limited to Figures 10a-16b and the accompanying detailed description set forth at page 15, line 14 through page 17, line 23.

New independent claim 118 recites a glaucoma treating device comprising a) an elongate probe, b) a bipolar electrode that is useable to form an opening in the trabecular meshwork such that fluid may drain through said opening into Schlemm's canal and c) a protector that is configured to be advanced into Schlemm's canal, such protector being configured and positioned in relation to the bipolar electrode such that it will substantially protect cells that line the scleral wall of Schlemm's canal from being substantially damaged by energy that emanates from the bipolar electrode.

Neither Rockley et al. nor Kagawa et al. nor any other prior art of record describes or even suggests a device as recited in new independent claim 118. Both Rockley et al. and Kagawa et al. describe devices and methods wherein ultrasound is used to remove the lens of an eye. Neither Rockley et al. nor Kagawa et al. describe or suggest any device having a bipolar electrode in combination with a protector configured to be positioned in Schlemm's canal and to protect cells lining the scleral wall of Schlemm's canal from damage as the bipolar electrode is used to form an opening in the trabecular meshwork. Thus, for this reason and others not

Appl. No. 10/052,473
Amdt. dated May 31, 2005
Reply to Office Action of February 28, 2005

PATENT

specifically articulated here, independent claim 118 is allowable over all prior art of record.

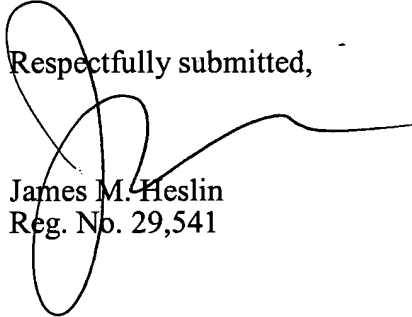
Claims 119-130 further define or further limit the subject matter of claim 118 and, thus, are also allowable.

Accordingly, reconsideration and issuance of a notice of allowance is earnestly solicited.

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,


James M. Heslin
Reg. No. 29,541

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 415-576-0300
Attachments
JMH:jke
60503596 v1